

UNITED STATES DISTRICT COURT for the  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CHARLES COLEMAN, JOHN T. COONEY, JR., JAMES :  
BODRATO, and JOHN J. CHIAFFI, in their fiduciary capacity :  
as Trustees for the LABORERS LOCAL 754 HEALTH & : WAIVER  
WELFARE FUND, PENSION FUND, SAVINGS FUND, : OF SERVICE  
ANNUITY FUND, INDUSTRY ADVANCEMENT FUND, : OF AMENDED  
DUES SUPPLEMENT FUND, LECET FUND, NATIONAL ; SUMMONS  
HEALTH AND SAFETY FUND, NYSLPAFUND, 754 LECET :  
FUND, TRAINING FUND and ORGANIZING FUND; and :  
CHARLES COLEMAN and JOHN J. CHIAFFI, as Officers :  
of LABORERS LOCAL UNION 754, :  
:  
:  
Plaintiffs, :  
:  
-against- : 07-CV-9404  
:(Scheidlin, J.)  
:(Ellis, M.J.)  
:  
JV EXCAVATORS AND CONTRACTORS L.L.C., :  
JOHN VETERI, JOHN VETERI, JR., and DOE FIDUCIARY, :  
Defendants. :  
-----X

TO: Carol G. Dell, Esq.  
Holm & O'Hara LLP  
3 West 35<sup>th</sup> Street, 9<sup>th</sup> Floor  
New York, NY 10001

I acknowledge receipt of your request that I waive service of an amended summons in the  
action of *CHARLES COLEMAN et al, in their fiduciary capacity as Trustees for LABORERS  
LOCAL 754 BENEFIT FUNDS and CHARLES COLEMAN et al as officers for LOCAL 754 v. JV  
EXCAVATORS AND CONTRACTORS L.L.C., JOHN VETERI, JOHN VETERI, JR., and DOE  
FIDUCIARY*, which is case number 07-CV-9404 in the United States District Court for the  
Southern District of New York .

I have also received a copy of the amended complaint in the action, two copies of this  
instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of an amended summons and an additional copy of the amended complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the amended summons or in the service of the amended summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after December 14, 2007.

Date: 12/12/07

Signature: Paul H Mandel, Esq., Counsel for JV Excavators and John Velaz

Printed/typed name: Paul H Mandel, Esq.

#### Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant who, after being notified of an action and asked to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or even its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court.

If the answer or motion is not served within this time, a default judgment may be taken against the defendant. By waiving service, a defendant is allowed more time to answer than if the summons has been actually served when the request for waiver of service was received.

Effective A/o 12/1/93 in compliance with  
Federal Rules of Civil Procedure 4